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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,131	11/15/2001	Fred J. Pinciario	31049-1001	4627

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EXAMINER

PAYNE, SHARON E

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,131	PINCIARO, FRED J.	
	Examiner	Art Unit	
	Sharon E. Payne	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 28 July 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Drawings

1. The drawings were received on 28 July 2003. These drawings are not acceptable, because the changes made are not marked in red or otherwise highlighted. See M.P.E.P. 608.02(p).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenfeld (U.S. Patent 4,061,910).

Regarding claim 1, Rosenfeld discloses at least one decorative accessory (Fig. 6) comprising at least one holding element for receipt of a disposable and replaceable chemiluminescent article (reference numbers 73, 74 and 75) wherein the at least one holding element comprising at least one end (Fig. 6 on right) and a main body (reference number 74), the main body comprising at least one opening (Fig. 6, opposite of reference number 74 filled with chemiluminescent article) for directly displaying the chemiluminescent article (reference number 78), and at least one chemiluminescent article (reference number 78) disposable and replaceable by the wearer in the at least one holding element via the end (column 10 in lines 9-11, Fig. 6).

Regarding claim 2, Rosenfeld discloses the decorative element comprising a reflective element (column 9, lines 34-38).

Concerning claim 3, Rosenfeld discloses the reflective element comprising metal (column 9, line 33). (The reference states that any material may be used, but rings are normally made of metal.)

Regarding claim 4, Rosenfeld discloses a reflective element comprising a finished surface that is polished (column 9, line 35).

Concerning claim 5, Rosenfeld discloses a reflective element that is rectangular (Fig. 7).

Regarding claim 6, Rosenfeld discloses a reflective element that has a three-dimensional shape (Fig. 7).

Concerning claim 7, Rosenfeld discloses the holding element comprising a closing member (reference number 62).

Regarding claim 8, Rosenfeld discloses a closing member comprising a cover (reference number 62).

Regarding claim 9, Rosenfeld discloses multiple holding elements (Fig. 6, reference numbers 73, 74 and 75).

Regarding claim 10, Rosenfeld discloses a holding element comprising a partially opaque member (side walls 64 are opaque).

Concerning claim 11, Rosenfeld discloses the partially opaque member having a fixed translucent area (wall surface 62 is translucent).

Regarding claim 12, Rosenfeld discloses a decorative element additionally comprising an ornamental element wherein the ornamental element comprises a translucent member (semi-precious stone, column 9 in line 34).

Concerning claim 13, Rosenfeld discloses the ornamental element as being a semi-precious stone (column 9, line 34).

Regarding claim 14, Rosenfeld discloses the ornamental element being back-lit by the chemiluminescent article (column 9, lines 1-30).

Concerning claim 15, Rosenfeld discloses the accessory being a ring (Fig. 7).

Claim Rejections - 35 USC § 103

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfeld in view of Tedham et al. (U.S. Patent 6,431,724).

Regarding claim 31, Rosenfeld does not disclose a purse or satchel. Tedham et al. discloses a satchel (Fig.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the satchel of Tedham et al. with the apparatus of Rosenfeld for carrying articles in a lighted bag.

Response to Arguments

5. Applicant's arguments filed 28 July 2003 have been fully considered but they are not persuasive. Applicant argues that amended claim 1 is patentable over Rosenfeld because Rosenfeld does not disclose one opening for directly displaying the chemiluminescent article. To the contrary Fig. 6 of Rosenfeld is a piece of jewelry having a holding element (reference number 74) comprising at least one end (Fig. 6, by reference number 74) and a main body (Fig. 6), the main body comprising at least one opening (reference number 74 on left holding the chemiluminescent article) for directly displaying the chemiluminescent article (Fig. 6). In other words, a hole exists on the end of the holding element which is filled by the chemiluminescent

stick. The end of the stick is directly displayed, because it is hanging out from the end of the holding element (reference number 74). Therefore, claim 1 is anticipated by Rosenfeld.

The rejections of the previous claims over Tedham et al. are rendered moot due to the rejections over Rosenfeld.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (703) 308-2125. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

sep
September 29, 2003


Stephen Husar
Primary Examiner